

CHAPTER 21

NUISANCES

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ARTICLE A

GENERAL PROVISIONS

Section 21.1 Noise; generally

(a) Any unreasonably loud, disturbing or unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited.

(b) Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is hereby declared to be a nuisance and is hereby prohibited.

(c) The following acts are declared to be nuisances in violation of this section, but such enumerations shall not be deemed to be exclusive.

(1) Musical Instruments: The playing of any radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

(2) Animals and birds: The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

(3) Horns or other signal devices on vehicles: The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh sound for any unnecessary and unreasonably period of time.

(4) Operation of vehicles: The running of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring or rattling noises, or vibrations.

(5) Steam whistles: The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, or as a warning of danger.

(6) Exhaust without mufflers: The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) Devices operated by compressed air: The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.

(8) Construction work: The erection, including excavation, demolition, alteration or repair work on any building whereby loud and annoying noises are created, other than between the hours of 7:00 a.m. and 6:00 p.m. on week days, except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the board which permit may be renewed by the board during the time the emergency exists.

(9) Near schools and hospitals: The creation of any excessive noise, on any street adjacent to any school or institution or learning while the same is in session or adjacent to any hospital, which unreasonably interferes with the working of such institutions, provided conspicuous signs are displayed in such manner indicating that the same is a school or hospital street.

(10) Loading and unloading vehicles, etc.: The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(11) Peddlers, hawkers, etc.: The raucous shouting and crying of peddlers, hawkers and vendors, which disturbs the peace and quiet of the neighborhood.

(12) Use of drums, etc., to attract attention: The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show or sale of merchandise.

(13) Sounding of sirens, etc., on vehicles: The sounding of any siren, horn or other signal device on any automobiles, ambulance, truck, motorcycle, bus or other vehicle in the Village of Folsom, except as a danger or warning signal to persons or animals using the streets, sidewalks and public thoroughfares, shall constitute a violation of this section.

Section 21.2 Same: Loudspeakers; Declared Nuisance Except During Certain Hours; When Prohibited Near Schools and Churches

(a) The practice of playing loud speaking equipment from a stationary position or from cars, trucks, vehicles or other transportation within the Village, except during the hours from 3:00 p.m. each day to 6:30 p.m. each day, beginning September first through March thirty-first, and except during the hours from 4:00 p.m. each day to 7:30 p.m. each day, beginning April first through August thirty-first, is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

(b) The practice of playing loud speaking equipment from a stationary position or from cars, trucks, vehicles or other transportation within the Village shall not be done near schools while in session nor churches while services are being conducted.

Section 21.3 Same; same; Exception in Case of Emergency

The provisions of Section 21.2 shall not apply to public announcements in the event of emergencies or matters greatly affecting the public interest, which emergencies or matters of public interest shall be determined by the Mayor and Board of the Village of Folsom.

Section 21.4 Peddlers, etc., Going Uninvited on Premises, Declared a Nuisance

The practice of going in and upon private residences in the Village by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited so to do by the owners or occupants of such private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise or disposing of or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

Section 21.5 Same; Exclusion from Prohibition

The provisions of Section 21.4 shall not apply to the sale, or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named herein is now authorized by law.

Section 21.6 through Section 21.10

Reserved

ARTICLE B

ABATEMENT

Section 21.11 Notice to Abate, Contents

Except as otherwise provided in this code, whenever the existence of any nuisance on any lots or parcels of real estate situated within the Village, shall come to the knowledge of the health officer, it shall be his duty to forthwith cause a written notice, identifying the property, to be issued to the owner. The notice shall be addressed to the person at his post office address or by publication as many as two (2) times within 10 consecutive days, if personal service may not be had as aforesaid, or if the owner's address be not known, requiring the abatement of the nuisance within 10 days from the service of the notice. The notice shall further state that in default of the performance of the above condition, the Village may, at once, cause the same to be done and pay therefor, and charge the cost and expense incurred in doing or having the work done, or improvements made, to the owner of the property, and fix a lien thereon as provided in Section 21.12.

Section 21.12 Performance of Work by Village

The terms and conditions of this article shall be enforced by the health officer, and in the event of the failure, refusal or neglect of the owner or occupants of any premises or property to cause the nuisance to be removed or abated in the manner and within the time provided in Section 21.11, then it shall be the duty of the health officer to cause the condition constituting a nuisance, to be promptly and similarly abated, in a reasonable and prudent manner, at the expense of the Village. The health officer and director of public safety shall carefully compile the cost of the work done and improvements made in abating the nuisance, and shall charge the costs against the owner of the premises. The board hereby finds and declares that general overhead of administrative expense of inspection, locating owner, issuing notice, reinspection and ordering work done, together with all necessary incidents of same, require the reasonable charge of \$250.00 for each lot, series of two (2) or more adjacent and contiguous lots, or tract or parcel of acreage, and the minimum charge is hereby established and declared to be an expense of the work and improvement. Notwithstanding, therefore, any tabulation of recorded cost, a minimum charge of \$250.00 shall be assessed against each lot so improved under the terms of this article, but the sum of \$250.00 is hereby expressly stated

to be a minimum charge only, and shall have no application when the tabulated cost of the work done shall exceed the minimum charge. After receiving a compilation of the cost of the work, and after charging the same against the owner of the premises, the city health officer shall certify a statement of the expenses and shall file the same with the parish clerk. Upon filing the statement, the Village shall have a privileges lien upon the land described therein and upon which the improvements have been made, second only to tax liens and lines for street improvements to secure the expenditure so made, and 10 per cent interest on the amount from the date of the payment. For any expenditures, and interest, as aforesaid, suit may be instituted by the municipal attorney and recovery and foreclosure had in the name of the Village; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any work or improvements. Upon payment of the full charges assessed against any property, pursuant to the procedure hereinabove set forth, the health officer shall be authorized to execute, for and in behalf of the municipality, a written release of the lien heretofore mentioned, the written release to be on a form prepared and approved in each case, by the municipal attorney.

Section 21.13 Contracts, Award by Village

The Village of Folsom shall have the right to award any quantity of work authorized under Section 21.12 to a general contractor whose bid shall be accepted by the board as the lowest and best secured bid for the doing of the work herein mentioned during a stipulated time not to exceed one (1) year.

Section 21.14 Penalty for Failure to Abate

Any owner, lessee or occupant, whether a natural person or a corporation, or any agent, servant representative or employee of any owner, lessee or occupant, including any person having ownership, occupancy or control of any lots or parcels of real estate or any part thereof, or interest therein, situated with the Village, on which there exists any nuisance, who shall allow or permit any nuisance to be created or to remain and continue if created and established, or who shall fail, refuse, or neglect to remove or abate the nuisance within 10 days from the date of service of notice thereof as provided in Section 21.11 shall be deemed guilty of a misdemeanor.

Section 21.15 Summary Abatement

In addition to the foregoing remedy and cumulative thereof, if it shall be brought to the attention of the board and the board determines that any nuisance is likely to have an immediate adverse effect upon the public health, comfort or safety, then

and in that event the board may, by appropriate resolution or motion, order the nuisance summarily abated in a reasonably prudent manner.

Editorial Note: General authority for municipalities to prevent, remove and abate nuisance is L.R.S. 33:401 (8). The exclusionary provisions of Section 21.5 are directed by L.R.S. 33:4833 which prohibits municipalities of less than 300,000 population from forbidding sale of farm produce on the municipal streets. L.R.S. 33:401(5) authorizes municipalities to regulate the activities of peddlers.

**ORDINANCE AMENDING CODE OF ORDINANCES
CHAPTER 21, NUISANCES**

AN ORDINANCE TO REGULATE "CAN SHAKERS"

WHEREAS, Louisiana Revised Statute Title 33 "Municipalities and Parishes," Chapter 2 "Local Government," Part I "Mayor and Board of Aldermen," Subpart C "Municipal Powers," provides:

Section 361. Municipal powers.

"A. Except as otherwise provided in this Part, a municipality shall be vested with all powers, rights, privileges, immunities, authorities, and duties heretofore possessed in accordance with all constitutional and statutory provisions with respect thereto. A municipality is further authorized to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs not denied by law."

WHEREAS, included within the police power of municipal corporations is the authority to regulate solicitation of money within municipal limits, the authority to legislate for the safety and protection of its residents and visitors, and the duty to do so.

WHEREAS, the Mayor and Board of Aldermen have concluded that the solicitation of money within municipal limits must be regulated for the safety and protection of municipal residents and visitors.

BE IT ORDAINED by the Board of Aldermen of the Village of Folsom, State of Louisiana that the Village of Folsom, Code of Ordinances, Chapter 21 "Nuisances," be amended as follows:

Section 21.6 "Solicitation of money on public streets."

a. Definitions. As used in this section, the following words or phrases shall have the following meaning, unless the context indicates that another meaning is intended.

"Individual" shall mean a natural person.

"Person" shall mean any group, club, association, organization, charitable organization, corporation or any natural person acting on behalf of any such entity.

"Public streets" shall mean the public highways, roads and streets within the municipal limits of Folsom, whether owned or maintained by the municipality or otherwise, and shall include the rights-of-way, neutral grounds adjoining said rights-of-way, highways, roads and streets.

"Solicitation or soliciting" shall mean the attempt by one or more individuals to collect or receive money from another person, whether or not in exchange for goods, wares or property.

b. Restrictions on times and days of soliciting.

Soliciting shall be allowed on Saturdays and Sundays between the week-day hours of 9:00 a.m. and 5:00 p.m.

There shall be no soliciting on the following days:

Monday through Friday.

Days on which Mardi Gras parades are held.

Mardi Gras day.

Mardi Gras weekends.

July 4.

Memorial Day

Labor Day.

Christmas Day.

Days on which special events are held such as block parties, concerts or other such occasions.

c. Permit required.

No solicitation shall be allowed unless a permit to solicit has been issued by Folsom Town Hall.

An application for permit to solicit must be accompanied by evidence that the organization benefiting from the solicitation is a charitable or non-profit entity with tax-exempt status under the United States Internal Revenue Code.

An application for permit to solicit must be accompanied by evidence that the organization benefiting from the solicitation possesses current liability insurance with limits of not less than One Million Dollars (\$1,000,000). Alternatively, the organization benefiting from the solicitation may provide the Village of Folsom with a document attesting that the organization assumes risks associated with solicitation.

Evidence of insurance or an attestation of assumption of risk must be provided to the Village of Folsom not earlier than one month prior to the date of solicitation nor later than one week prior to the date of solicitation.

The permit shall apply to one intersection only.

The permit shall be valid for the indicated date only.

No individual or organization shall be issued more than three permits in a single calendar year.

No permit shall be issued to an individual who is under the age of 17 years.

d. Safety standards.

Prior to the date of solicitation, individuals soliciting are required to attend a safety briefing conducted by the Folsom Police Department.

During solicitation, an orange safety vest must be worn.

Solicitation must be confined to intersections controlled by traffic signals. Not more than four individuals may solicit at a single intersection at any one time. No individual soliciting shall walk between lanes of traffic or vehicles.

Individuals must post at least 100 feet before the intersection, in all directions, warning signs marked "Solicitation ahead by (name of soliciting organization) of (domicile or organization)."

e. Safety briefing.

The safety briefing conducted by the Folsom Police Department shall include an explanation of municipal traffic patterns and other safety items.

Individuals receiving the safety briefing must:

schedule the safety briefing with the Folsom Chief of Police.

present proof of age.

at the conclusion of the safety briefing, sign a written acknowledgement that he or she attended and understood the material presented and the contents of this ordinance.

e. Suspension, revocation or permit.

The Folsom Chief of Police has authority to suspend solicitation during inclement weather, emergencies, or when the safety of motorist, pedestrians or solicitors would be jeopardized.

The failure of any individual or organization to comply with the requirements of these section shall be grounds for revocation of permit.

An individual or organization whose permit to solicit has been revoked may not apply for another permit for a period of one year.

An individual or organization who has failed to remove warning signs at the end of the solicitation period will not be issued another permit for a period of one year.

An individual or organization who continues to solicit beyond the permitted period will not be issued another permit for a period of one year.

f. Criminal penalties.

Violation of this ordinance shall constitute a misdemeanor.


BE IT FURTHER ORDAINED that this ordinance shall take effect on and after its promulgation.

Said ordinance having been introduced on the 10th day of January, 2005, notice of public hearing having been published, said public hearing having been held on the 14th day of February, 2005, the title having been read and the ordinance considered, on motion duly made and seconded to adopt the ordinance, a record vote was taken and the following was had:

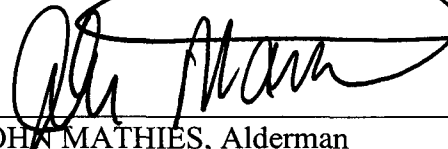
Yeas:	Alderman George Garrett
	Alderman Ronald Holliday
	Alderman John Mathies
Nays:	None
Abstentions:	None
Absent:	None

Whereupon the Mayor declared the above ordinance duly adopted on the 14th day of February, 2005.

Folsom, Louisiana this 14th day of February, 2005.

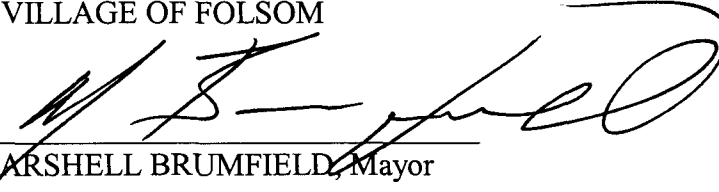

GEORGE GARRETT, Alderman


RONALD HOLLIDAY, Alderman


JOHN MATHIES, Alderman

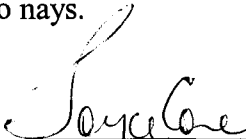
Approved:

VILLAGE OF FOLSOM

By: 
MARSHELL BRUMFIELD, Mayor

CERTIFICATE

I, Joyce Core, certify that the above and foregoing is a true and correct extract of the minutes of the regular session of the Village of Folsom held at the Town Hall in the Village of Folsom, Louisiana on the 14th day of February, 2005. Present: Marshall Brumfield, Mayor, George Garrett, Alderman, Ronald Holliday, Alderman, John Mathies, Alderman. All present voted yea and there were no nays.


JOYCE CORE, Municipal Clerk